

BURLEY AND FLUE-CURED TOBACCO

**REPORT OF THE
COMMISSION TO STUDY MATTERS RELATING TO
FLUE-CURED AND BURLEY TOBACCO**

To

THE GOVERNOR

and

THE GENERAL ASSEMBLY OF VIRGINIA



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COMMONWEALTH OF VIRGINIA

Department of Purchases and Supply

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To: HONORABLE MILLS E. GODWIN, JR., *Governor of Virginia*
and
THE GENERAL ASSEMBLY OF VIRGINIA

INTRODUCTION

Virginia's history and tradition are closely associated with the tobacco industry. Tobacco is produced in Virginia in great quantities. Tobacco is sold in Virginia in great quantities. Tobacco is consumed in Virginia in great quantities. Because the producing and marketing of tobacco affects such a large number of citizens of the State, the General Assembly of Virginia has for many years enacted statutes regulating the marketing of tobacco. The Virginia State Supreme Court of Appeals in 1925 in *Reaves Warehouse v. The Commonwealth*, 141 Va. 194, at page 202, points this out in the following language:

“Because tobacco warehouses are so affected by this public use, the statutes of Virginia have for many years provided for inspection, weighing, fees to be charged, monthly reports to the Commissioner of Agriculture and many other details. . . . Being so impressed with a public interest, they [the warehouses] may be regulated under the police power.” Again at page 212

“The conclusions here stated are based upon sound reason and are consistent with well established principles, among which are that public [tobacco] warehouses are affected with a public interest; that a classification based upon reason is valid.”

Almost twenty-five years ago, in 1945, the General Assembly created a Commission to study and make a report on the auction method of selling burley tobacco. This Commission recommended the enactment of a statute to provide for minimum and maximum charges and fees which could be imposed by public warehouses operated for the sale of burley tobacco.

This recommendation was enacted into law with certain variations in 1946 and appears in the Code of Virginia today as §§ 61.1-55 and 61.1-56. Later, in 1968, a statute was enacted to set the maximum allowable warehouse charges on the sale of flue-cured tobacco, the provisions of which are set out later in this report.

As the maximum charges for the sale of burley tobacco were established in 1946, the continually changing economy of the State and the industry prompted Albert S. Harrison, Jr., Governor of Virginia, by letter dated April 7, 1964, to request the Virginia Advisory Legislative Council to make a study and report upon the burley tobacco industry. This the Virginia Advisory Legislative Council did and recommended that the two Code sections, which at that time were numbered 61-154 and 61-155, be repealed and that the study be continued and a follow-up report be made to the 1968 General Assembly. These recommendations the 1966 General Assembly refused to follow and the status quo continued.

At the 1968 Session of the General Assembly, a bill was introduced proposing to add two sections in Chapter 7 of Title 61 of the Code of Virginia, which would have created within the Department of Agriculture and Commerce the “Virginia Burley Tobacco Board of Trade”. This bill failed to pass but the 1968 General

Assembly did enact Chapter 690 of the 1968 Acts of Assembly, referred to above, establishing maximum allowable charges by flue-cured tobacco warehousemen, as follows:

“. . . on and after July one, nineteen hundred sixty-eight, no tobacco auction warehouse shall charge the grower for services rendered in the sale and handling of flue-cured tobacco any amount or sum in excess of the following:

“(a) Warehouse charges: ten cents per one hundred pounds or fraction thereof;

“(b) Auction fee: twenty-five cents per basket and commission of two and one-half per centum of the gross amount of each sale.

“§ 2. This act shall expire July 1, 1970.”

Recognizing that a thorough study of marketing of flue-cured and burley tobacco and matters relating thereto was necessary, the 1968 General Assembly adopted House Joint Resolution No. 143 creating a Commission to conduct such a study, in the following language:

HOUSE JOINT RESOLUTION NO. 143

Creating a Commission to study matters relating to flue-cured and burley tobacco.

Whereas, tobacco is the leading cash crop in the Commonwealth of Virginia as well as its leading manufacturing industry; and

Whereas, the livelihood of thousands of the citizens of this State is dependent upon the ability of this industry to prosper and flourish; now, therefore, be it

Resolved by the House of Delegates, the Senate concurring, That a Commission is hereby created to make a study and report concerning the marketing of flue-cured and burley tobacco to include, but not limited to, the market structure, the problems of marketing, the adequacy of present statutes governing marketing, and the reasonableness of marketing charges made by warehousemen in the flue-cured and burley tobacco industries. The Commission shall be composed of seven members as follows: The Speaker of the House of Delegates shall appoint two persons from the membership of the House; the President of the Senate shall appoint one person from the membership of the Senate and the Governor shall appoint four persons, one representing growers of burley tobacco, one representing burley tobacco warehousemen, one representing growers of flue-cured tobacco, and one representing flue-cured tobacco warehousemen. The Commissioner of Agriculture and Commerce and the Director of the Cooperative Extension Service of the Virginia Polytechnic Institute shall serve as ex officio members. All appropriate agencies of the State shall assist the Commission in its study. The Commission shall complete its study and report to the Governor and General Assembly not later than October one, nineteen hundred sixty-nine.

The members of the Commission shall receive no compensation for their service, but shall be paid their necessary expenses; and for such expenses and for such secretarial and other assistance as the Commission shall require, there is hereby appropriated a sum sufficient from the contingent fund of the General Assembly, not to exceed the sum of five thousand dollars.

Pursuant to this resolution, the Governor appointed A. H. Easley, Chatham; Turner A. Gilmer, Jr., Castlewood; William N. Hendricks, Lebanon; J. Cabel Love, Kenbridge; who were respectively, as directed by the resolution, a grower of flue-cured tobacco, a grower of burley tobacco, a burley tobacco warehouseman, and a flue-cured warehouseman. The Speaker of the House of Delegates appointed two members of the House: Honorable James B. Fugate, Gate City, and Honorable R. Maclin Smith, Kenbridge. The president of the Senate appointed Senator Adelard L. Brault, Fairfax. In addition, as provided in this resolution, Maurice B. Rowe, Commissioner, Virginia Department of Agriculture and Commerce, and

W. E. Skelton, Director, Cooperative Extension Service, Virginia Polytechnic Institute, served as ex-officio members. The office of the Division of Statutory Research and Drafting acted as Secretary to the Commission, Frank R. Dunham representing it. In this study, the Commission obtained invaluable assistance from Roy B. Davis, Jr., Tobacco Marketing Agent, Virginia Department of Agriculture and Commerce, and J. Paxton Marshall, Extension Specialist, Public Policy, Virginia Polytechnic Institute, Blacksburg.

At its organizational meeting, the Commission elected Senator Adelard L. Brault, Chairman, and R. Maclin Smith, Vice-Chairman.

During the course of its study, the Commission visited warehouse sales of flue-cured tobacco in South Boston and Danville and of burley tobacco in Abingdon. Public hearings were held in South Boston and Abingdon, which were well publicized and well attended by warehouse operators and tobacco growers. To study and discuss what had been seen by it and said to it, the Commission held several executive meetings. In addition to evaluating all information gathered by it, the Commission took an in-depth look at all practices relating to the sale of flue-cured and burley tobacco. After careful reflection, the Commission submits this Report on flue-cured and burley marketing practices in the State and proposes for adoption a method by which it believes these practices can be improved to the advantage of warehousemen, growers and buyers alike, and above all, improve the marketing of tobacco throughout the State.

A BRIEF BACKGROUND LOOK AT THE MARKETING OF TOBACCO IN VIRGINIA

Tobacco is the biggest cash crop grown in Virginia. Four types of tobacco are grown and marketed in the State; namely, flue-cured, burley, fire-cured and sun-cured. Also, a very small amount of Maryland tobacco is grown in the dark-fired and flue-cured producing areas near Farmville. In 1968, 46,227 Virginia tobacco allotment owners marketed one hundred fifteen million pounds of tobacco for the amount of \$75.7 million. Of the tobacco produced in Virginia, a little over eight million pounds of flue-cured and burley tobacco were sold in other states. On the other hand, producers in other states sold thirty-two million pounds of their production on Virginia markets. In Virginia, one hundred forty-seven million pounds of all types of tobacco were sold in 1968.

Practically all tobacco marketed in Virginia is sold by growers to manufacturers and processors through what is known as an "auction system". This system operates as follows: as tobacco is prepared for market, the grower divides his crop into lots, piles, or baskets in order to comply with the maximum weight regulations established for each marketing system and delivers it to the warehouse floor. There each lot, pile or basket is weighed and placed in rows to await grading by an inspector of the United States Department of Agriculture. After it is graded, representatives of the buying companies, with the aid of a sales starter, an auctioneer, and a ticket marker, bid for each lot, pile or basket of tobacco. The highest bid for each lot, pile or basket buys it. The "ticket marker" records the highest price bid and the name of the buyer who placed the bid for each lot, pile or basket. The warehouseman or the warehouse operator, which are synonymous terms, collects the data from each lot, pile or basket and gives it to the bookkeeper who, in turn, pays the grower and bills the buyer. In addition, these data are used to prepare various reports required by federal, State, and local authorities.

MARKET STRUCTURE FOR SELLING TOBACCO IN VIRGINIA

The term "tobacco market" is applied to any community containing one or more warehouses where tobacco is sold at auction. Usually a market is designated by the name of a municipality, but it does not, however, have to be located within the boundaries of such municipality.

The tobacco market structure in Virginia includes markets and warehouses for four types of tobacco. There are ten flue-cured markets with forty-six warehouses; three burley markets with twenty-one warehouses; three fire-cured markets with six warehouses; and one sun-cured market with one warehouse. The market name, the approximate warehouse floor space per market, the pounds of tobacco sold in 1968 per square foot, the number of warehouses in the market, and the number of sets of buyers assigned to each market are shown in the following Table 1.

The tobacco marketing season varies in time of the year and in duration for each type of tobacco. The average season by type is: flue-cured, fourteen weeks, from September to December; burley, five weeks, from late November to mid-January; fire-cured, eight weeks, from early December to February; and sun-cured, about five weeks, from early December to mid-January. The actual length of a season is determined to a considerable extent by the ability of the growers to prepare their tobacco for market and of the buying companies to process it.

TABLE 1—TOBACCO MARKET STRUCTURE IN VIRGINIA, 1968

Market Name	Approximate floor space (in square feet)	Average pounds sold (producer sales per square foot)	Number warehouses	Number sets of buyers	Average sales opportunity per warehouse 1000 lbs./ week***
FLUE-CURED					
Brookneal	78,300	74.8	3	1	405
Chase City	91,325	51.2	4	1	304
Clarksville	179,530	27.1	3	1	405
Danville	1,710,250	23.8	9	4	540
Kenbridge	182,500	29.6	6*	1	203
Lawrenceville	138,000	48.2	3*	1	405
Martinsville	160,000	50.1	3	1	405
Petersburg	82,000**	57.7	2	1	608
South Boston	602,000	30.2	9	2	270
South Hill	176,392	48.0	4	1	304
TOTAL	3,400,297	31.6	46	14	370
BURLEY					
Abingdon	849,688	13.8	12	2	284
Gate City	522,100	15.2	5	1	340
Pennington Gap	370,000	15.4	4	1	425
TOTAL	1,771,788	14.6	21	4	324
FIRE-CURED					
Farmville			3	1	
Blackstone			2	1	
Lynchburg			1	1	
TOTAL			6	3	
SUN-CURED					
Richmond			1	1	

*One new warehouse was added in 1968.

**An additional 112,000 square feet of floor space suitable for the sale of tobacco is not used for that purpose but is rented for storage and other uses.

***Flue-cured markets computed at the rate of 1,216,000 pounds per week per set of buyers. Burley markets computed on the basis of 1,701,000 pounds per week. Burley warehouses operating on basket basis can sell more than this if average basket weight is in excess of 270 pounds. Fire-cured and sun-cured markets restricted only by space and suitable light.

THE CHANGES IN MARKETING PROCEDURES

For many years the methods used in marketing of tobacco have remained basically the same. Recently, however, a number of factors within the system have changed and the marketing system has become subjected to many pressures for change. One such factor is the improvement in transportation systems which enable growers to market their crops over considerably greater distances. Another is the improved methods which have been developed for processing tobacco after it leaves the warehouse floor. Further, the manner in which the Virginia and Carolina flue-cured growers prepare tobacco for market has changed and recently tobacco is being sold in these areas on the auction floor "untied" or "loose-leaf". Formerly, it was all tied in bundles. This change began in 1962 under an experiment set up in the flue-cured area by the U. S. Department of Agriculture and approximately 4% of tobacco offered for sale in Virginia and the Carolinas was in untied form. Since 1962, the percentage of untied tobacco sold has increased each year until in 1968, 97% of flue-cured tobacco sold on the auction market was untied. This change enabled the flue-cured tobacco grower to prepare his tobacco for market much faster, probably two or three times the capability of the marketing system to handle it. As a result, there was a great demand for more sales opportunities by the growers. Since tobacco grown in one area could be moved easily into another area, the grower began to look for the place where he could sell his tobacco when it was ready for sale.

This caused the demand for available sales opportunity to increase until it exceeded the supply allocated to all markets, especially during the first half of the marketing season. The pattern of sales between the several markets was significantly altered because the grower sought an available sales opportunity wherever it was located. To avoid a complete collapse of the system due to congestion in the processing plant, means of regulating the flow of tobacco into the marketing system became essential.

REGULATION BY INDUSTRY-WIDE COMMITTEE

In an attempt to solve this problem, an industry-wide committee composed of producers, warehousemen and domestic and export buyers was formed. It became the controlling voluntary entity to regulate the sale of flue-cured tobacco in the marketing channels throughout all flue-cured belts of the United States. This group has no legal authority but with only minor exceptions, its recommendations have been accepted by the various operating groups. The committee recommends dates for opening the markets in the several belts and the amount of sales opportunity to be made available to the markets that are open. It makes sales opportunity allocations to the several flue-cured belts by recommending the opening date for each belt, determining the number of sets of buyers to operate on the belts (usually, this determination is made upon recommendations of the buying companies) and the number of pounds of tobacco each set of buyers is permitted to buy during a specified period. Generally, the committee considers a calendar week as a specified period and sets the total amount of sales opportunity to be allocated after considering the amount of tobacco the processing industry can handle without excessive congestion.

A LOOK AT THE REGULATION OF BURLEY MARKETS

The burley tobacco marketing system also has long been plagued with many of the problems currently observed in the flue-cured market. These have resulted in a higher proportion of warehouse floor space being built to accommodate the sales.

In the burley belt, allocation of sales opportunity to the markets is made by a sales committee sponsored by the Burley Auction Warehouse Association. Growers and warehousemen, along with State government representatives, compose this committee. Representatives of buying companies usually attend the meetings and make recommendations, but do not participate in the decisions. The committee sets

the opening date and the rate of sale in pounds or baskets per day. Each warehouse is given the option of choosing to regulate its sale by either pounds or baskets. Burley tobacco is sold during cold weather and this permits the buying companies to delay processing the tobacco for longer periods of time after receiving it from the warehouse. Also, the production of burley tobacco is considerably less in poundage in Virginia as it is in the other areas of the country where it is produced.

DIVISION OF SALES OPPORTUNITY

Tobacco markets do not operate as the ordinary market where produce is taken at the grower's pleasure and buyers come to the market to buy when and as they wish. To avoid complete chaos, the total amount of tobacco sold during a given period of time must be limited to the amount the processors can handle without spoilage and with as high a level of efficiency as possible. This is accomplished by allocating the sales opportunity to each area of production, to each market in the production area and to each warehouse on each market.

The allocation of the allowable sales opportunity to each production area has been discussed previously. Presently, markets within each belt are allocated sales opportunity in proportion to the number of sets of buyers assigned to that market.

In allocating sales opportunity within a market, one of five recognized systems is used: (1) wall-to-wall, (2) floor-space, (3) unit, (4) performance or experience, or (5) combination floor-space-performance.

(1) *The wall-to-wall system* is not used now, but is the system which determines sales opportunity by lot. Under it, a warehouse may continue to sell as long as the warehouseman can put tobacco on the warehouse floor ahead of the buyers. Thus, an individual warehouse might be able to use its complete floor space several times before losing its sales opportunity to a competitor.

(2) *The floor-space system* divides sales opportunity in direct proportion to a warehouse's total square foot area of the market's total square foot area. Thus, a warehouse with one hundred thousand square feet on a market with one million square feet receives ten per cent of the sales opportunity. Basically, this system is used in both the flue-cured and burley markets of Virginia.

(3) *The unit system* allots sales opportunity equally to warehouses in each market. Each warehouse is counted as a unit. For example, if there are ten warehouses, each receives ten per cent of the selling time. No market in Virginia is using this system at present.

(4) *The performance system* allots sales opportunity to each warehouse on the basis of its prior performance. Thus, a warehouse which sold one hundred thousand pounds out of a total market of one million is allotted ten per cent of the sales opportunity the next marketing year. This system compels each warehouse to compete on the basis of service to the growers, but problems arise in providing equitably for new entrants into the warehousing business and in determining procedures for providing adequate service and measuring sales volume as maximum poundage sold becomes the goal.

(5) *The combination floor-space-performance system* allots sales opportunity in relation to warehouse floor space with the base adjusted annually to reflect the performance of the several warehouses on the market during the previous sales year. This system enables a market to retain, to some degree, the stability of the floor space method and affords each warehouse on the market the possibility of an increase in sales opportunity, if its volume of tobacco sales increases in relation to other warehouses in that market.

SALES OPPORTUNITY ON VIRGINIA MARKETS

During most of the marketing season, flue-cured tobacco markets in Virginia operate with a sales opportunity of 1,216,000 pounds per week per set of buyers.

During the early part of the season, the sales opportunity may be reduced to prevent congestion and increased toward the end of the season as sales slow down. Ten years ago, sales opportunity on flue-cured markets was generally 3,300,000 pounds per week per set of buyers. This is more than two and a half times as great as at present.

Fourteen sets of buyers are normally assigned to Virginia's flue-cured tobacco markets. When operating at the rate of 1,216,000 pounds per set, per week, the average warehouse can sell 370,000 pounds per week. Sales are normally conducted at the rate of about 76,000 pounds per hour. At this rate, the average flue-cured warehouse in Virginia operates less than five hours per week selling tobacco. This average operating time on the several markets ranges from a low of two hours forty minutes to a high of eight hours per week.

On burley markets, sales usually are held for three and a half hours a day, five days a week. Warehousemen may choose to sell 1,260 baskets per day with a maximum of seven hundred pounds per basket or 340,200 pounds per day.

Fire-cured and sun-cured markets normally operate four days per week with the maximum daily operation governed by the availability of suitable light.

Because sales opportunity varies so widely between warehouses, computing an estimated cost for the warehouse industry to sell tobacco is an extremely complicated task, regardless of type. Average sales charges for the total sales of a crop approximate the return to the warehouse for the services rendered, which, it is correct to say, vary widely from warehouse to warehouse.

APPROXIMATE SALES CHARGES

Approximate sales charges for tobacco sold by growers on Virginia markets in 1968 are shown in Table 2. Maximum warehouse sales charges are set by statute for both flue-cured and burley tobacco. Since all charges are based to a large extent on the grower's price, the warehouseman's net return is affected by that price. Trends of constantly higher tobacco prices over the past thirty years have also been reflected in a rise in warehouse sales charges even though the percentage of sales charge has remained stable.

It might be pointed out that since the sales charge for fire-cured and sun-cured tobaccos are not set by statute, and since five of the seven warehouses for the sale of these tobaccos are cooperatively owned and operated, the sales charge problems have not come to the attention of the General Assembly. As a result, this Commission has concentrated its attention on the flue-cured and burley tobacco markets.

The over-abundance of warehouse capacity in both the flue-cured and burley areas of Virginia has been brought about by many factors. With the limitations on the total sales opportunity available to a market, the amount of floor space becomes an important factor in the allocation of sales opportunity to each warehouse. As a result, the already existing abundance of warehouse floor space was increased further. Moreover, previously accepted cost and return relationships within the warehouse industry have been altered and have put pressure on the warehousemen's allowable maximum sales charges. In short, the warehouseman asserts a need to increase these charges.

TABLE 2—PRODUCER SALES AND SALES CHARGES ON VIRGINIA MARKETS, 1968

Type	Pounds Marketed	Average Price (\$ cwt.)	Percentage of Price	Marketing Costs		Approximate Sales Charge per Hundred
				Basket	Fees per cwt.	
Flue-Cured	107,553,644	65.49	2½ %	10¢	25¢	\$1.90
Burley	25,823,604	73.33	3%		25¢	\$2.29
Dark-Fired	6,143,927	46.92	3%	75¢		\$1.92
Sun-Cured	1,197,628	53.20	3%	75¢		\$2.10

SOURCE: U. S. Department of Agriculture

In a word, this is the problem: The warehouseman says "I have spent money to build more space so that the growers may have more opportunity to sell. Thus, my warehouse charges should be increased." The grower, on the other hand, says "The price of tobacco has increased and so has the amount that we pay you; we didn't ask you to build more warehouse space, so why should we pay extra warehouse charges for your bad business management or at least your bad investment?"

It is obvious that an orderly adjustment in the over-abundance of warehouse space is essential in both the burley and flue-cured markets.

SALES CHARGE MAXIMUMS

As stated before, the General Assembly of Virginia regulates warehouse charges by setting allowable maximums. For burley tobacco the maximum allowable warehouse charges are 3% of the sales price plus 25 cents per basket; or as an alternative, before the opening day of the market, the warehouse operator may elect to charge not more than 75 cents per hundred pounds, which shall constitute the entire charge made in connection with the sale of burley tobacco. For flue-cured tobacco the maximum allowable sales charges are: ten cents per hundred pounds or fraction thereof, an auction fee of twenty-five cents per basket and a commission of two and a half per cent of the gross amount of each sale. These maximum charges were set by the 1968 General Assembly and expire July 1, 1970.

When the 1968 General Assembly enacted the maximum charges for flue-cured tobacco, it inserted in the statute the provision that those rates expire in 1970. Obviously, this action was intended only as a temporary measure. Thus, the 1968 General Assembly created this Commission to study the matter and instructed it to report its recommendations to the 1970 General Assembly.

The feasibility of the General Assembly's removing itself from becoming involved in fixing burley tobacco warehouse sales charges can be seen in the Virginia Advisory Legislative Council's report to the 1966 General Assembly. This conclusion is equally applicable to the flue-cured markets. This has become apparent to this Commission.

This background of the tobacco marketing system has been given because the recommendations this Commission makes result from the operation of this system. In other words, the Commission believes that a more orderly marketing procedure should be developed and its recommendation is made to effect it. It believes the maximum allowable sales charges enacted into law should have a more direct relation to actual marketing practices. The General Assembly cannot, with the myriad problems presented to it at each session, be fully informed and fully cognizant of a constantly changing system.

RECOMMENDATIONS

It is the recommendation of this Commission that there be created within the Department of Agriculture and Commerce the Virginia Tobacco Marketing Commission to be composed of ten persons appointed by the Governor. The membership of this Commission shall consist of three flue-cured tobacco growers, two burley tobacco growers, two flue-cured tobacco warehousemen, one burley tobacco warehouseman and two employees of tobacco companies purchasing tobacco in Virginia warehouses.

The Commission is empowered to issue annual licenses authorizing the operation of tobacco warehouses for the sale of flue-cured and burley tobacco, to establish rules and regulations governing the marketing, handling and sale of such tobacco, to prescribe the method or methods to be employed in allocating sales opportunity to the several Virginia markets and to the warehouse, operating on these markets, to set standards for the operation of the warehouses offering flue-cured and burley tobacco for sale, and to establish maximum warehouse sales charges. The present maximum allowable warehouse charges are to be enacted into law but may be lowered or

raised by this Commission only after a thorough and complete study and public hearing. The maximum allowable warehouse sales charges will be the same as they are now until the Commission has been afforded the opportunity to survey the entire marketing picture, hear everyone's complaints and devise a plan for the operation of the finest tobacco markets in the United States.

REASONS FOR RECOMMENDATIONS

Reasons for recommendations in many State study commission reports often appear to be justifications for or explanations of the members' reasons for making their recommendations. Often they are not responsive to questions in the reader's mind. In an attempt to make this report more useful, it will try to anticipate these questions and for this purpose, each of the following subsections will be titled with topics which relate to matters about which the Commission believes questions may arise.

1. *Why should the marketing of flue-cured tobacco be regulated?*—It is the considered opinion of this Commission that tobacco marketing procedures need not only supervision but updating or, at the barest minimum, modification. As we have said before, it is very difficult for the General Assembly to realistically act as the regulating body for establishing maximum charges and for all other matters affecting the marketing of tobacco. Only with full knowledge of the market conditions can this be effectively accomplished, and as presently the General Assembly meets for only sixty days every other year, during which time it considers between fifteen hundred and two thousand bills, this is impossible. This Commission feels that an established agency is required to stay abreast of the situation, be thoroughly and constantly conversant with all facets of the problems and be in a position to act promptly when a need arises for the best interests of all parties concerned.

2. *Is regulation constitutional?*—Yes, it is. In 1925, the Virginia Supreme Court of Appeals considered this in *Reaves Warehouse v. Commonwealth*—141 Va. 194. The language of this opinion, quoted in the introduction of this report, settles unequivocally the constitutionality of this type of regulation.

Statutes regulating the marketing of tobacco and the practices of warehousemen were enacted before the turn of the twentieth century. As seen, the Code of Virginia since 1946 has set the maximum allowable warehouse charges for burley tobacco. The proposed legislation does not alter the status quo one whit. The General Assembly sets the maximum in the proposed legislation and delegates to a Commission to change these maximums within certain limitations and under the guidelines imposed. The proposed Commission is the agency selected by the General Assembly to act for it, keep constantly informed of the varying tobacco conditions, and within the framework prescribed in the proposed legislation, make any changes which may become desirable or necessary.

One question which has arisen is the authority given to the proposed Commission to license new or expanded warehouse facilities. This authority is not given the Commission without limitation. The authority to license new or expanded warehouse space is based on the need of the industry, and in determining need, the proposed Commission is directed to consider the adequacy of presently available marketing facilities in the area where new or expanded facilities are requested and also the opportunity which such new or expanded facilities will give the industry to reduce operating costs and improve marketing efficiency and conditions for the sale of tobacco at auction. As a result, new warehouses can be used for the sale of tobacco or present facilities enlarged, only if the market will operate more efficiently and the movement of farmers' tobacco will be facilitated. Obviously, the cost of any new or expanded facility directly affects the warehousemen's profits. Since the maximum charges of warehousemen to a great extent determines the warehousemen's profits and are subject to State regulations, other aspects of the business relating to the warehousemen's profits are subject to the same regulations. Obviously, the cost of erecting new or expanding existing facilities for tobacco sales

affect the net profit of selling tobacco, as such construction is a cost of doing business. It might be noted that the proposed statute does not in any sense attempt to prohibit the erection of new warehouses or the expansion of those already built. It is the use to which such warehouses will be put that is regulated since the cost of such facilities directly affects the cost of operation which in turn determines what the warehouseman will include in determining the amount of justifiable charges to the growers.

3. *Why is the Commission created in the Department of Agriculture?*—The Department of Agriculture is the State agency best equipped to deal with and is the most knowledgeable State agency in the affairs and problems of farmers. This agency licenses tobacco warehouses as “commission merchants” and is thoroughly conversant with the marketing of tobacco. Under the proposed legislation, this Department is given no new regulatory powers over the marketing of tobacco, but is directed to act as secretariat to the Commission and to make all of its resources available, for studies, information and investigation.

4. *Why ten members on the Commission?*—The number ten is no magic number, but it is a number for members of the Commission which will be workable. Everyone knows a Commission with thirty, forty, or sixty members presents a problem in logistics and also a problem of being too large in numbers to meet and effectively act. The number “ten” in and of itself has no meaning, but it was thought that with ten members each segment of the industry could be represented and no one section or no one interest on the Commission would dominate. As there are many times the number of growers of tobacco as there are warehousemen or buyers, one-half of the Commission is composed of growers; to wit, three flue-cured tobacco growers and two burley tobacco growers. Because warehousemen have an interest in the matters covering their operation, and there are more flue-cured warehouses than burley warehouses as well as markets in Virginia, it was thought that two flue-cured warehousemen and one burley warehouseman would be representative of this group. The tobacco companies purchasing tobacco on the Virginia market were given two members because these companies are affected with an interest in the marketing of tobacco, because they can balance the commission and, perhaps, add an impartial view to it. In reading the proposed statute, it can be seen that the Commission can take no action without the affirmative vote of seven members; thus, neither the warehousemen and the buyers, nor the growers alone can control the Commission. Any action must be a joint effort. Either the growers must obtain the assent of two buyers or of two warehousemen before any action can be taken, or the warehousemen and buyers must obtain the assent of two growers before action can occur, or some other combination thereof to take effective action. Thus, the number “ten” well balances the representative interests of the Commission. Another observation on the Commission is the prohibition against reappointment beyond two consecutive terms.

5. *What are the powers of the Commission?*

(1) *To issue annual licenses for the operation of warehouses.* This provides a method not only of regulating warehouses but also of financing the proposed commission's activities. The rate is believed to be fair in that it amounts to not more than 25¢ per 1,000 pounds of tobacco handled at each warehouse. This cost is not exorbitant and yet should be sufficient to finance the operation of the Commission. The cost is paid by the warehousemen; it is not chargeable to growers.

(2) *To establish rules and regulations to govern marketing, handling and sale of tobacco at the markets.* This authority is given in order that the Commission may establish minimum standards which warehouses must maintain. It is believed that this will improve the quality of the service provided by warehouses to the growers and buyers and also protect the grower, the warehouseman and buyers from certain undesirable practices, which, while small in number, do occur from time to time at the various tobacco markets.

(3) *To set the maximum warehouse charges and auction fees which ware-*

housemen may charge. While this authority is granted, it is pointed out that the Commission is *not* obliged to act in this field. The proposed legislation makes permanent law the statutory maximum warehouse charges *which exist today.* These charges will remain and be the maximums until seven members of this Commission, after holding hearings and otherwise conforming with the statute, determine if the maximum charges should either be raised or lowered. Before the maximum charges are raised or lowered, it is believed that this Commission should thoroughly and completely study what is best for the industry as a whole. All segments of the tobacco marketing business are represented on this Commission, and their judgment should represent that of the entire industry. In other words, the Commission can act in a broad range of areas where it is needed and can truly reflect the marketing situations and the complaints of everyone concerned.

(4) *To prescribe the method or methods to be used to allocate sales opportunity for the sale of tobacco in the State.* This authority is granted to provide the Commission an opportunity to work in the most perplexing area of the tobacco marketing system in the hope that, through careful and thorough analysis of the problem and possible solutions, the Commission may be able to make a significant contribution to a more orderly and an improved marketing system.

As the need for restricting the flow of tobacco into the marketing system increases, the importance of the method or methods used to divide the available marketing opportunity to the several marketing facilities also increases.

It has been previously pointed out that as the restrictive measures have increased, the proportion of warehouse space not needed for sales has increased, and previously accepted cost and return relationships have been altered. In addition, the historical marketing patterns have been changed drastically as growers have been forced to find any available sales opportunity; the opportunity which warehouse operators have to increase their sales volume, and thus improve their operational efficiency and profit potential, is substantially reduced; and the tendency to develop marketing patterns that are unresponsive to improved technology and nominal competitive forces appears to be increasing.

Since no solution is readily apparent, the Commission is not directed to change the present method or methods of allocating sales opportunity to the several marketing facilities in Virginia. Rather, it recommended that the present method or methods used in making these allocations be prescribed, until such times as the Commission, after thorough study, determines a change which will be of benefit to the industry as outlined in the proposed legislation.

(5) *To issue certificates of need for tobacco warehouse space.* This authority is granted the Commission in order that it may establish minimum standards relating to new warehouses, or expansion of existing warehouses, or replacements for existing warehouses. Procedures may be established for present and prospective warehousemen to justify the industry's need for additional warehouse floor space. It must consider the need in relation to the use of new methods for handling tobacco within the warehouse, or new markets requiring new warehouse facilities. Existing warehouse space would not be subject to issuance of certificates of need, except as modifications of such space may be required to conform to minimum standards established by the Commission. It also should point out that an existing warehouse shall be granted a certificate authorizing it to conduct the sale of tobacco only in the same areas and at the same place such sales were conducted the previous year. It is intended by this to preserve the status quo until the Commission decides otherwise.

(6) *To assure financial responsibility of warehouses.* The power to require warehousemen to post surety and bond is given the Commission to assure growers and buyers of the financial responsibility of the warehouse operation. Minimum insurance standards to protect growers and buyers against fire or theft may be established by the Commission after determination of the need for, and desirability of, such standards.

6. *What is the status of present warehouse operators?* The recommended legislation presumes that each of the existing warehouse facilities is needed, and provides a grandfather clause permitting the continued operation of existing warehouses. These warehouses are, however, expected to conform to the rules and regulations that the Commission may establish and require as the basis for the issuance of the annual license. The Commission may also suspend or revoke these licenses, when the warehouseman violates the rules and regulations.

7. *Are any limits placed on eligibility for membership on the Commission?* Yes, tobacco growers must be appointed to represent farmers, and the word "grower" includes any person actually engaged in the growing or production of tobacco, including landlords and tenants. Warehousemen are eligible. Buyer representatives must be employees of companies buying tobacco on Virginia markets. In addition, a Commission member may serve no more than two full 4-year terms. All appointments will be made by the Governor for terms beginning July 1 on the year of appointment. Interested parties may offer recommendations.

8. *Are any provisions made for advisory committees to the Commission?* Yes. The Commission is authorized to appoint committees to advise it on specific questions when it feels such advice is needed. The Commission is authorized to pay normal travel, meal and lodging expenses, but no salary may be paid for members of any advisory committee.

9. *Will the procedures to be used by the Commission assure that all interested parties will be given an opportunity to express their views?* Yes. Rules and regulations may be issued only after public hearings. The Commission has the power to conduct studies and to conduct public hearings before reaching final decisions.

10. *Does the proposed statute directly or indirectly imply that the current allowable maximum warehouse charges are adequate or reasonable?* No. This Commission has made no attempt to establish the adequacy or reasonableness of such present authorized charges. This is the purpose of the new proposed Commission. The proposed statute gives the new Commission this authority, and for this study Commission to make a statement in this report on the adequacy of such charges, would be premature and duplicatory.

11. *Will the proposed new Commission supersede the flue-cured industry-wide thirty-six man committee?* No. The industry-wide thirty-six man committee is a voluntary-appointive body which is not a creature of State authority and has no enforceable legal authority. The new proposed Commission will be a creature of the State and will, therefore, have legal authority. It is empowered to cooperate with State, regional and national organizations and agencies in matters affecting the marketing of tobacco in Virginia. Thus, cooperation with the industry-wide committee is implied and to be encouraged.

CONCLUSION

It is the hope of this Commission that the proposed legislation will enable the burley and flue-cured tobacco industries to regulate themselves through the proposed new Commission. It is our belief that self-regulated industries are the best, and we trust that we have made possible this type of regulation.

Finally, may we express our appreciation to both the growers and the warehousemen for counselling with us, expressing their opinions and permitting us to gain a complete picture of the burley and flue-cured tobacco business.

One member of the Commission could not concur in the proposed recommendations, and has written a separate statement, which is attached.

Legislation to carry out the proposal herein is attached.

Respectfully submitted,

Adelard L. Brault, *Chairman*
R. Maclin Smith, *Vice-Chairman*

*A. H. Easley

**James B. Fugate

Turner A. Gilmer, Jr.

William N. Hendricks

J. Cabel Love

*Minority Report
**Separate statement attached

STATEMENT OF A. H. EASLEY

I respectfully submit the following statement which dissents from the Commission's recommendations. I wish to point out that I have the highest personal regard for my colleagues on the Commission, but I am sure each Commission member has been aware of my position on their final report.

I would be content, and I believe the flue-cured growers would also be content, to see the temporary two year legislation enacted by the 1968 General Assembly made permanent. This legislation established maximum sales charges for flue-cured tobacco, and expires July 1, 1970.

I do not, however, want to be considered as holding an arbitrary and unrelenting position against the establishment of a tobacco marketing commission. The evidence within the Commission report makes it clear that the problems in the marketing of flue-cured tobacco are not restricted to sales charges. For example, there is the continual expansion of warehouse space (and more recently, markets) within an industry which is already over-supplied with space and which has become so rigidly fixed that growers have almost no opportunity to bring about changes in the system by the simple transfer of their business between warehouses within a market or between markets. This situation has been accentuated by flue-cured tobacco growers adopting a new method of marketing their tobacco—the untied leaf method. This made it easier for the farmers to prepare tobacco for market, and to increase the rate of marketing the crop. Hence, demand for sales opportunity has increased substantially. This relatively new method of marketing created chaos in the flue-cured marketing system in 1967 and led to the establishment of an industry-wide committee, commonly known as the "Thirty-Six Man Committee," which has been operative for two years. The purpose of this Committee is to recommend sales schedules and other improvements in marketing conditions to the several segments of the industry. I believe this voluntary approach to the problems of marketing on an industry-wide flue-cured basis has brought about some improvements and advantages to growers.

On the matter of sales charges the evidence is clear from the experience in other tobacco production areas, that fixed maximum sales charges do not alone act to limit the volume of warehouse space. Any space that is built and counted in the allocation of sales opportunity is eventually paid for by the tobacco growers. The floor space in the flue-cured area is already abundant. Any increase in sales charges will almost certainly result in more space being added which will be paid for by tobacco farmers, who are faced with changes in economic conditions similar to those of the warehousemen.

I believe Virginia flue-cured farmers view the existing tobacco sales warehouse capacity as ample, even if not of uniform quality. They know some warehousemen can improve their economic situation even under existing prices, if some flexibility can be worked into the present system which, as I have already mentioned, is quite rigid. However, I contend that if warehouse operators are not permitted to increase their sales charges they may seek ways within their own organizations to reduce the amount of unused floor space by diverting it to other uses and increase efficiency by consolidation and improving their facilities.

Because the tobacco warehouse system operates in the "public interest," many flue-cured tobacco farmers believe it is desirable to have the decisions which affect the interest of both tobacco farmers and warehouse owners made by persons who will be responsive in their positions to the desires of the people affected. I believe elected members to the General Assembly have a public interest responsibility and occupy positions more responsive to the people than the appointive positions normally associated with commissions.

These are complex problems and many combinations of views and opinions exist about what ought to be done. My views could be further developed and are only briefly expressed here without full qualification.

My colleagues on this Commission and I have discussed at length problems mentioned in the report and some problems not mentioned in the report. We have worked together in shaping the proposed legislation submitted by the Commission.

However, my cooperation with the members of the Commission must not be interpreted as an endorsement of their approach. If flue-cured marketing conditions were ever to merit a tobacco marketing commission, it is my belief that the organizational structure recommended by this report would be fair and equitable to all concerned.

STATEMENT OF JAMES B. FUGATE

I was furnished a copy of the Commission's final Report. Due to ill health and other commitments, I was unable to attend any meeting of this Commission and, in view of this, I do not feel that I should take part in its Report. For this reason, I have not signed the Report. However, my failure to sign in no way should be construed as an indication of my dissatisfaction with, nor dissent, from this Report.

A BILL To amend the Code of Virginia by adding in Title 61.1 a new chapter numbered 8, containing sections numbered 61.1-62 thru 61.1-67, inclusive, relating to the creation of a Virginia Tobacco Marketing Commission in the Department of Agriculture; qualifications for membership; terms of office; powers of Commission; hearings by Commission; disposition of monies collected from fees; appointment of advisory committees; penalties for violations; and issuance of licenses to presently operating tobacco warehouses; and to repeal chapters 6 and 7 of Title 61.1 of the Code of Virginia containing §§ 61.1-55 thru 61.1-61, inclusive.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia be amended by adding in Title 61.1 a new chapter numbered 8, containing sections numbered 61.1-62 thru 61.1-67, inclusive, as follows:

§61.1-62.(a) There is hereby created, within the Department of Agriculture and Commerce, an agency to be known as "The Virginia Tobacco Marketing Commission", consisting of ten members to be appointed by the Governor, who must on the date of appointment, during their term of service on the Commission and in the numbers specified, be engaged in the following occupations: three flue-cured tobacco growers; two burley tobacco growers; two flue-cured tobacco warehousemen; one burley tobacco warehouseman; and two employee representatives of tobacco companies purchasing tobacco on the Virginia flue-cured and burley markets. The Governor shall make his appointments from a list submitted by the several grower, warehouse and buyer organizations in the respective tobacco producing areas of the State. Each member shall be appointed for a term of four years beginning July one, except those first appointed, who shall be appointed as follows: three shall be appointed for terms of two years; three for terms of three years; and four for terms of four years. No member of the Commission who serves two consecutive four-year terms shall be eligible for reappointment for a period of four years after the expiration of the last term. Appointments to fill an interim vacancy shall be made by the Governor for the unexpired term.

(b) The Commission shall elect its own Chairman and Vice-Chairman who shall serve as such for two years from the date of election and no member may succeed himself as Chairman. The Commission shall meet once every ninety days and at other times on either the call of the Chairman or on the written request of five members. Such meetings may be held in the office of the Department of Agriculture in Richmond or at such place or places as may be designated by the Commission.

(c) The members of the Commission shall be paid thirty dollars per day for each day actually spent in meetings, plus their actual and necessary travel expenses to and from meetings.

(d) A quorum for the conduct of business by the Commission shall be seven members and no decision of the Commission shall be binding unless agreed to by a two-thirds vote of the Commission's total membership. The Chairman shall have a vote on every question presented in the same manner as any other member of the Commission.

The Department of Agriculture and Commerce shall serve as secretariat to the Commission, record its proceedings, conduct studies for the Commission and perform such other technical services as may be required by the Commission. In addition, the Virginia Agricultural Experiment Station of the Virginia Polytechnic Institute at Blacksburg shall assist the Commission in conducting research and making studies.

§61.1-63. The Commission is declared to be an instrumentality of the Commonwealth, vested with the powers: (a) to issue annual licenses on July one of each year for the operation of warehouses offering for sale flue-cured and burley tobacco, and to collect annual fees for such licenses not to exceed the following: twenty-five cents per thousand pounds of tobacco handled per marketing year for which the license is issued, based on a sworn estimate thereof submitted by the prospective licensee, the exact fee for the license to be determined at the end of the marketing season. The amount of the fee will be based on the amount of pounds of tobacco sold the previous marketing season.

In considering applications for licenses for any new or expanded warehouse facilities the Commission may, as it deems advisable, require proof of the need for the establishment of such new or expanded warehouse facilities, and in determining such need, the Commission shall consider the adequacy of presently available marketing facilities in the area where new or expanded facilities are being requested to be licensed, and the opportunity which new or expanded warehouse units will give the industry to reduce operating costs, improve marketing efficiency, and improve marketing conditions for tobacco in Virginia. It may also establish such requirements as it deems advisable in matters relating to financial responsibility of operators, bonding, insurance, and other similar matters to insure the sound financial operation of the marketing system;

(b) to establish rules and regulations governing the marketing, handling and sale of burley and flue-cured tobacco at the various markets in the State, which rules and regulations may relate to, but are not limited to, the rate at which tobacco may be sold on the market, trade or other practices used in the sale of tobacco or in the operation of warehouses, movement of tobacco offered for sale at auction before the grower or his representative has confirmed such sale, and standards of tobacco warehouse facilities and operation, including lighting, sanitation, weighing, loading and unloading;

(c) to set maximum warehouse charges and auction fees which may be charged for burley and flue-cured tobacco. Until this Commission establishes a different charge, the maximum charges a warehouse may charge for the sale of tobacco at auction shall be as follows:

FOR FLUE-CURED TOBACCO

- (1) Warehouse charges: ten cents per hundred pounds or fraction thereof, and
- (2) Auction fees, twenty-five cents per basket and a commission of two and one-half per centum of the gross amount of each sale.

FOR BURLEY TOBACCO

Commissions: Three per centum of the sales price of tobacco, plus a basket charge not to exceed twenty-five cents per basket, which commission and basket charge shall constitute the entire amount of commission which the warehouse operator may charge in connection with any sale; provided, however, that on or before the opening day of the market in any year, the

warehouse may elect to charge a commission not to exceed seventy-five cents per one hundred pounds, which commission shall constitute the entire charge made in connection with the sale of tobacco throughout the market season of the warehouse for which such election is made.

The Commission may increase or decrease the maximum charges allowable for the sale of flue-cured or burley tobacco at auction only after a complete and thorough study of the cost of rendering services to the growers by the warehouses and of the means to encourage the orderly marketing of tobacco which will be fair and equitable to all parties involved in the sale. Before any increase or decrease in allowable market charges is made by the Commission, one public hearing shall be held in each affected production area of the State, after notice is published once a week for two consecutive weeks in any newspaper having daily circulation in the area where the hearing is to be held. Any final order of the Commission effecting a change in the fees prescribed by this section shall be posted in the main office of the Department of Agriculture and Commerce for inspection by the public;

(d) to prescribe the method or methods to be used in allocating sales opportunity for the sale of tobacco to the several markets and to the several tobacco warehouses on these markets. In prescribing these methods, the Commission shall give due consideration, among other things, to historical marketing patterns, methods presently used, improved marketing practices or techniques, the opportunity present methods afford growers, warehousemen and buyers to effect changes in the marketing pattern, the increase or decrease which a different method will afford, the competition between the marketing facilities in the State afforded by the present method, the increase or decrease in competition which any revision would afford, the opportunity presently afforded warehousemen to increase their sales volume by providing desired facilities or services and the increase or decrease in such opportunity which the proposed revision would afford, and the opportunity presently afforded buyers to effect the sales volume sold at a particular facility and the increase or decrease in this opportunity which a proposed revision would afford. Nothing herein contained shall be construed to advocate a change in any existing methods. Before any change is prescribed, public hearings shall be held as prescribed in subsection (c) of this section;

(e) to cooperate with State, regional and national organizations in matters affecting the marketing of tobacco in Virginia and in research, advertising, publicity, education and other means of promoting the sale of flue-cured and burley tobacco on Virginia markets;

(f) to deny or suspend licenses for operation of a flue-cured or burley tobacco warehouse upon the presentation of satisfactory evidence that the insurance or continuance of such license is detrimental to the marketing of flue-cured or burley tobacco in the State. No license shall be denied or suspended until and unless the applicant or licensee is afforded a hearing and notified in writing by certified mail of the time and place of the hearing, at least thirty days prior to the date set for the hearing. Such written notice shall be served by mailing notice thereof by certified mail to the last known business address of such applicant or licensee. At this hearing, the applicant shall be permitted to present evidence and to examine and cross-examine witnesses, either in person or by counsel. Witnesses may be compelled to testify under oath at the discretion of the Commission or on the motion of the applicant or licensee. The Commission may summon witnesses either on its own behalf or upon written request on behalf of the applicant or licensee to attend such hearing and the usual fees and procedures for summoning witnesses in civil actions in this State shall be applicable. Upon denying or suspending a license, the Commission shall issue and send by certified mail a copy of a written statement of its conclusions and the reasons therefor to the applicant or licensee. Any person aggrieved by any order of the Commission refusing to issue or reissue a license or revoking or suspending a license may appeal to the Circuit Court of the City of Richmond within thirty days of the date of the issuance of such order. The appeal shall be filed by a petition directed against the Commission as defendant, alleging in detail the action complained of, the objections thereto and specifying the relief

sought. The clerk of the Circuit Court of the City of Richmond on receipt of such a petition shall issue a summons directed to the Chairman of the Commission returnable within thirty days. On or before the return date of such summons, the Commission may file its answer to the allegations contained therein and upon the filing of such answer, the cause shall be matured for hearing in the court without further pleading, and upon application of either party, the cause shall be placed at the head of the docket and heard forthwith. The Commission shall, on or before the return day of such summons, certify to and file in the court the record of the proceedings to which the petition refers. Such record shall include all testimony taken therein and findings of fact of the Commission, a copy of all orders made by the Commission pertaining to the proceedings and a copy of the order or decision of the Commission which the petition calls upon the court to review. Mere technical irregularities in the procedure of the Commission shall not be the basis for reversal by the court. Additional testimony shall not be taken by the court except to clarify the record or to determine the effect of the order upon the business of the parties, but the court may, in proper cases, remand the record of the Commission for the taking of further testimony which was not available upon the hearing appealed from or for such other testimony as the court may direct be taken. No part of the record containing verbal or documentary evidence shall be disregarded by the court because of the technical rules of evidence. The filing of such a petition in the Circuit Court of the City of Richmond shall not automatically stay the effect of the order appealed from, but, if on proper application to the Circuit Court of the City of Richmond undue hardship is shown to result therefrom, the court in its discretion may suspend the execution of the order appealed from and fix the terms.

§61.1-64. All monies collected under the provisions of this Chapter shall be credited to a special fund to be known as "The Virginia Tobacco Marketing Commission Fund" which is hereby created. All monies credited to this fund are hereby appropriated for the purposes herein set forth and shall be used exclusively for the administration and enforcement of this Chapter including the payment of expenses of employees of the Commission and the payment of rental, services, materials and supplies necessary to effectuate the purposes and objects of this Chapter. Any unexpended balance in this fund at the end of each biennium shall not be transferred to the General Fund of the State Treasury but shall be carried over for future use by the Commission in carrying out the provisions of this Chapter.

§61.1-65. In performing its duties under this Chapter, the Commission may appoint "ad hoc committees" for the purpose of assisting it in promulgating any rule, regulation or order it is authorized by law to issue. The membership of such committees, the duration of their term of service and the determination of their duties shall be in the sole discretion of the Commission. Any person serving on any such committee shall be entitled to no compensation for services rendered but the Commission may reimburse the committee members for necessary travel expenses to and from meetings.

§61.1-66. Any person violating any provision of this law, or any rule, regulation, requirement or order established or promulgated hereunder or license issued pursuant hereto, shall be guilty of a misdemeanor and shall upon conviction thereof be fined not more than fifty dollars for the first offense and not more than five hundred dollars for any subsequent offense.

§61.1-67. On the effective date of this chapter, any person, group of persons, corporation, partnership, business trust, association or any other legal entity owning or operating a warehouse in this State for the marketing of flue-cured or burley tobacco shall be entitled to the issuance of a license to operate such a warehouse upon the payment of the fee prescribed in § 2 (a) provided an application for such license is made to the Commission in writing on forms prescribed by it, within ninety days of the effective date of this Chapter. The license shall authorize the licensee to conduct the marketing of tobacco only in the same warehouse area and at the same place such sales were conducted the previous marketing year.

That Chapters 6 and 7 of Title 61.1 of the Code of Virginia, containing §§61.1-55 thru 61.1-61, inclusive, are hereby repealed.

